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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,353	10/31/2003	Richard A. Nygaard JR.	10011220-1	2527

7590 05/07/2007  
AGILENT TECHNOLOGIES, INC.  
Legal Department, DL429  
Intellectual Property Administration  
P.O. Box 7599  
Loveland, CO 80537-0599

EXAMINER
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TSAI, CAROL S W

ART UNIT	PAPER NUMBER
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2857

MAIL DATE	DELIVERY MODE
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05/07/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/699,353	NYGAARD, RICHARD A.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Carol S. Tsai	2857	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 October 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-9 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Specification*

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

**The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words.** It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

### *Allowable Subject Matter*

2. Claims 1-9 are allowed.
3. The following is a statement of reasons for the indication of allowable subject matter:

U. S. Publication 2003/0187620 to Nygaard, JR. et al. is the reference closest to the claimed invention. Nygaard, JR. et al. disclose a method of measuring a degree of dissimilarity between component eye diagrams in a collection thereof, the method comprising the steps of: (a) selecting a reference feature on each component eye diagram in the collection; (b) forming a composite eye diagram from the component eye diagrams in the collection, However, Nygaard, JR. et al. do not teach (b) the reference feature of each component eye diagram in the collection being in forced alignment within the composite eye diagram; and (c) maintaining a data structure describing offsets needed to align the reference features of the component eye diagrams in the collection and that form the composite eye diagram, and so forth; and including all of the other limitations in the respective independent claims.

***Conclusion***

4. This application is in condition for allowance except for the following formal matters:

The format for an abstract of the disclosure is improper.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 25 USPQ 74, 453 O.G. 213, (Comm'r Pat. 1935).

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Eskeldson et al. disclose a sampling transition-through-a-selected-voltage-detector sets two latches to different values when an input signal comparator referenced to the selected voltage transitions during a sample interval: at the beginning of the sample interval one latch receives one comparison value while at the end of the sample interval the other latch receives an opposite comparison value.

Hoshide disclose an optical receiver comprising: a HIGH level detector (11) for detecting a HIGH level of an output signal from a preamplifier (2); a DC level detector (12) for detecting a DC level of the output signal from the preamplifier; a LOW level detector (13) for detecting a LOW level of the output signal from the preamplifier; a first subtracting circuit (14) for determining a first subtraction result by subtracting the DC level from the HIGH level; a second subtracting circuit (15) for determining a second subtraction result by subtracting the LOW level

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from the DC level; a third subtracting circuit (16) for determining a third subtraction result by subtracting the second subtraction result from the first subtraction result; and a correction circuit (17) for correcting a DC bias applied to an AC component of the output signal from the preamplifier by weighting the third subtraction result according to characteristics of a light receiving element and characteristics of the preamplifier, and by determining a difference between a level of a crossing point of an eye diagram of the output signal from the preamplifier, at which rising and falling edges of pulses included in the output signal from the preamplifier cross each other, and the DC level.

Nygaard, JR. discloses fast eye diagram analyzer using nearest neighbor traverse to quickly discover basic eye diagrams.

Budin et al. disclose a system implementing an extremely high speed link allowing selection of either twisted pair (or like media) and fiber media in a single local area network to provide a high speed multimedia local area network.

Powell II, et al. disclose a symbol synchronizer (10) for use in a communication device.

### ***Contact Information***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carol S. Tsai whose telephone number is (571) 272-2224. The examiner can normally be reached on M-F (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E. Barlow can be reached on 571-272-2269. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

cswt

May 2, 2007

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CAROL S.W. TSAI  
PRIMARY EXAMINER